IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.MC.No. 3094 of 2007()

PETITIONER: 2ND ACCUSED

ABOOBACKER, S/O. LATE KUNHABDULLA,
SANTHI TRADERS, A.G.P. 7/188 G,
AYENCHERI, VADAKARA.

BY ADV. SRI.V.V.SURENDRAN

RESPONDENTS: COMPLAINANT AND STATE

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. FOOD INSPECTOR,
VADAKARA CIRCLE.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 3094 Of 2007

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Dated this the 10th day of October, 2007

ORDER

The petitioner faces indictment in a prosecution under the provisions of the Food Adulteration Act. The case filed in 2004 has at last crept it way up and now stands posted for defence evidence. Defence evidence had been adduced in part. At long last certain petitions were filed by the petitioner. The petitioner wanted himself to be examined as a witness under Section 315 Cr.P.C. That permission was granted. The petitioner was not able to examine himself as a witness on that day. He wanted further time to produce certain documents. He wanted to prove such documents by examining himself. The learned Magistrate felt that prayer for further time was not justified at all. In these circumstances, the learned Magistrate rejected the prayer for further time to produce the documents. The impugned order was passed by the learned Magistrate refusing further time to produce such documents.

2. I have gone through the impugned order. Very valid reasons are given by the learned Magistrate as to why the petition was being dismissed. The learned counsel for the petitioner makes an impassionate plea that the petitioner may be permitted to immediately produce the documents and examine himself. If he is not permitted it will cause prejudice, hardship and loss to the petitioner it

is submitted.

3. I do not actually find anything wrong in the impugned order. However, the sense of justice of the Courts is, sometimes unnecessarily, hurt where prayer is made, for adducing evidence and such prayer is not allowed.

4. Be that as it may, I am satisfied that the petitioner can be granted time to examine himself and to produce the documents before the learned Magistrate within a period of seven days from this date.

5. The learned Magistrate shall permit the petitioner to examine himself and to adduce the evidence if he produces all the necessary documents within a period of ten days from this date. Considering the nature of the order that I have passed and in the interests of expedition, I am satisfied that it is not necessary to order notice to the respondent in this matter. The learned Public Prosecutor has of course been given notice.

6. In the result this petition is allowed. It is directed that the petitioner must produce all the documents within a period of ten days from this date and examine himself on the date to be fixed by the learned Magistrate.

7. Hand over a copy of this order to the learned counsel for the petitioner. He shall produce this order before the learned Magistrate on the next date of posting.

(R.BASANT, JUDGE)

sj